

Remarks/Arguments

Objections to the Specification

The Examiner objected to the disclosure because of the following informalities:

Paragraph 24, line 12, "he" should be changed to "the";

Paragraph 25, line 13 "at or" should be deleted;

Abstract, Line 1, "means should be changed to "ratchet clamp";

Abstract, line 3, "hub means" should be changed to "metal rings hubs"; and,

Abstract, line 6, "and the means for adjusting the length of an anchoring strap comprises a ratchet clamp" should be deleted.

Applicant has amended the specification in accordance with the Examiner's suggestions. No new matter has been entered. Reversal of the objections is courteously requested.

Objections to the Drawings

The Examiner objected to the drawings and indicated that the drawings did not illustrate "hook and loop, male and female snap members, buttons and button holes, buckle and clamping member," of Claim 7 such that the features must be shown of the claims canceled. Applicant has canceled Claim 7 in view thereof. Applicant respectfully submits that the subject matter of Claim 7 remains encompassed by the term "Fastener means" of the independent Claim 1.

The Examiner objected to the drawings and indicated that they did not illustrate "non-circular ring structure" of Claim 11, "sliding buckle" of Claims 14 and 15, "open eyelet operable to be closed" of Claim 19 and the carabiner of Claim 20 such that the features must be illustrated in the drawings or the features canceled from the claims. Applicant has canceled Claims 11, 14, 15, 19 and 20 in view thereof. Applicant respectfully submits that the subject matter of the canceled claims remains encompassed by the terms "hub means", "cargo securing straps", and "fastener means" of Claim 1.

Claim Rejections under 35 U.S.C. §102 (Anticipation)

The Examiner rejected independent Claims 1, 2 and 5-10 under 35 USC §102 as being anticipated by U.S. Patent No. 393,195 (Way). Applicant respectfully traverses the rejection inasmuch as the rejection applies to the claims as amended.

“A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described in a single prior art reference.” *Vandergaal Bros. v. Union Oil of California*, 814 F.2d 628, 631; 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP §2131. (Emphasis added). “Every element of the claimed invention must be literally present arranged as in the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). (Emphasis added). “The identical invention must be shown in as complete detail as is contained in the...claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). MPEP §2131. Consequently, to uphold an anticipation rejection, there must be identity of invention.

Amended Claim 1 and new Claim 21 include the limitations that the invention comprises at least a pair of anchoring straps, means for adjusting the length of at least one of the anchoring straps, at least two cargo securing straps, and at least two hub means. The hub means slidably secure the cargo securing straps therebetween and a first end of each of the anchoring straps. The second ends of the anchoring straps are free and at least one of the free ends comprises a fastener means. As described in Applicant's specification and drawings, there are clear differences between hub means and fastener means. More specifically, hub means generally comprise a closed loop structure whereas the fastener means comprises an opening for securing the fastener means to a substrate. Brewer, on the other hand, discloses a cargo net. Brewer's cargo net does not comprise anchoring straps having a free end or anchoring straps comprising fastener means secured thereto. Brewer discloses straps 78a and 78b, which are secured to a pair of closed. As such, straps 78a and 78b of Brewer are more appropriately analogous with the applicant's cargo securing straps 24. Indeed, the terminal ends of straps 78a and 78b are not illustrated as being freely movable, but are secured to circular rings, which secure other straps. Applicant's anchoring straps, however, comprise a freely movable end and at least one has a

fastener means secured thereto. Brewer does not disclose anchoring straps and does not disclose fastener means secured thereto.

Furthermore, the present claims include the limitations that the hub means slidably secure each of the cargo securing straps therebetween. Brewer does not disclose a similar structure as each hub does not secure each cargo securing strap.

In view of these differences, the rejection should be reversed.

Claim Rejections under 35 U.S.C. §103 (Obviousness)

The Examiner rejected Claims 5, 6, 7, 13 and 19 as being obvious in view of the teachings of Brewer, Dew et al., and common knowledge. Applicant respectfully traverses the rejection.

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some teaching, suggestion or motivation, either in the references themselves or in the knowledge generally available to one having ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references (or references when combined), must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." MPEP §2142, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis Added).

There is no Teaching, Suggestion or Motivation to make the Combination

With regard to Claims 5, 6, 13 and 19, amended Claim 1 and new Claim 20 include the limitation the first and second hub means slidably secure each of the cargo securing straps therebetween. Brewer discloses a three dimensional cargo net having a lattice structure for securing items upon a pallet and does not disclose, teach or suggest first and second hub means slidably secure each of the cargo securing straps therebetween. As indicated with regard to the rejection under 35 USC §102, Brewer does not disclose, teach or suggest a structure analogous to

applicant's freely moving anchoring straps and does not disclose, teach or suggest freely movable anchoring straps comprising fastener means. Finally, Brewer's lattice structure is wholly contrary to the applicant's structure. Similarly, Dew et al. disclose a cargo net comprising a planar lattice structure. Dew et al. Brewer do not disclose, teach or suggest first and second hub means that slidably secure each of the cargo securing straps therebetween. Furthermore, Dew et al. does not disclose, teach or suggest structures anchoring straps adapted for rotatable slidable movement about hub means, but rather discloses buckles that act to prevent such rotatable slidable movement. Dickerson does not disclose, teach or suggest a pair of anchoring straps, cargo securing straps or hub means, nor does Dickerson disclose, teach or suggest that the anchoring straps and cargo securing straps are slidably secured to a hub means. On the contrary, Dickerson discloses a device for securing the wheel of a car or the like. The device of Dickerson, arguably, comprises a single anchoring strap for applying a tightening force in one direction to secure a tire. The present invention, on the other hand comprises a pair of anchoring straps, which apply a force in multiple directions for securing a load. Thus, in addition to being void of a teaching, suggestion or motivation to combine or modify the reference teachings to create the present invention, it is seen that the inventions described by Brewer, Dew et al. and Dickerson actually teach away from the combination/modification propounded by the Examiner.

With regard to Claim 7, Applicant has canceled claim 7 thereby rendering the objection moot. Applicant's, nevertheless, traverse the Examiner's assertion of common knowledge. For one, the Examiner has not proffered any objective evidence to support the assertion that the various devices for securing cargo are equivalent and will work equally well, as required by law. Additionally, if such Notice is taken, the basis for such reasoning must be set forth explicitly and the Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. In the present case the Examiner has not done so, but merely states, "the examiner takes Official Notice of the securing means and the J-hook for their use in the strap securing art and the selection of any of these known equivalents to secure would work equally well in the device of Brewer." In sum, such structures are not equivalent as evidenced by their very different structures and uses. Indeed, a J-

hook is not equivalent to a snap, button, or hook and loop, and there may be specific instances wherein one type of fastener may be more appropriate than another. For example, for heavy loads a J-hook may be preferable whereas button or snap fasteners would not be sufficient to secure the loads. Alternatively, if damage to a substrate is to be prevented, the use of hook and loop may be preferred to a J-hook.

The References do not Teach or Suggest all Claim Limitations

Independent Claims 1 and 21 require that the hubs slidably secure each of the two cargo securing straps therebetween, and each of the hubs secure a first end of the anchoring straps for rotatable sliding movement therewith. None of Brewer, Dew et al. or Dickerson discloses, teaches, or suggests such features. As previously indicated, Brewer and Dew disclose lattice type cargo nets such that the hubs do not secure each of the cargo securing means therebetween; Dew et al. disclose a buckle means 34a, which acts to prevent the rotatable sliding movement of strap 30 about the circumference thereof; Dickerson does not disclose hub means, a pair of cargo securing straps or a pair of anchoring straps or that the anchoring straps are rotatably slidable about the hubs.

There is no Reasonable Expectation of Success

Absent an explicit teaching, suggestion or motivation contained in the prior art to make the specific combination/modification, or the use of hindsight reconstruction, there is simply no reasonable expectation of success. Indeed, there are perhaps millions of ways by which teachings of Brewer, Dew et al, and Dickerson may be combined, however, there must be some teaching, suggestion or motivation in the prior art to take those specific elements contained in the references and combine them in the manner of the applicant to arrive at the instant invention. In the present case, none of the references cited by the Examiner, or that knowledge generally available to one having ordinary skill in the art contain such teaching, suggestion or motivation.

For the reasons set forth above, Applicant respectfully submits that the present invention is nonobvious in view of Brewer, Dew et al and Dickerson and the rejection should be reversed.

Attorney Docket No.: SCBP:101US
U.S. Patent Application No. : 10/781,235
Reply to Office Action of December 20, 2005
Date: March 21, 2005

Conclusion

For the reasons set forth above, Applicant respectfully submits that the present application is now in condition for allowance, which action is courteously requested

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Peter Konzel', written in a cursive style.

S. Peter Konzel, Esq.
Registration No. 53,152
CUSTOMER NO. 24041
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, NY 14221-5406
Telephone No. 716-626-1564
Fax No. 716-626-0366

SPK/
Dated: March 21, 2005